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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,977	11/08/2001	Hong Gan	04645,0852	5875
7590	12/23/2003			
Michael F. Scalise Hodgson Russ LLP Suite 2000 One M&T Plaza Buffalo, NY 14203-2391			EXAMINER WEINER, LAURA S	
			ART UNIT 1745	PAPER NUMBER
DATE MAILED: 12/23/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/008,977	GAN ET AL.
	Examiner Laura S Weiner	Art Unit 1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 30 is/are allowed.
- 6) Claim(s) 1,3,4,7,10,13-17,21,22,24,26-29,31,34,36,38 and 39 is/are rejected.
- 7) Claim(s) 5,6,8,9,11,12,18-20,23,25,32,33,35 and 37 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 4) Interview Summary (PTO-413) Paper No(s). _____.
 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. Claims 1, 3-4, 7, 14-16, 17, 21, 26, 31, 34, 36, 38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al. (5,601,951).

Johnson et al. teaches in column 2, line 65 to column 3, line 24, a cell having a carbon negative electrode and a carbon positive electrode together with an electrolyte salt. Johnson et al. teaches that one method of providing the required metal ions for the carbon electrodes is by inserting a sacrificial third electrode of metallic lithium into the cell between the carbon negative and the carbon positive electrodes. When this third electrode is connected to either of the carbon electrodes through an external circuit, the third electrode acts as an anode for transfer of lithium ions by electrochemical oxidation of the lithium metal. Johnson et al. teaches in column 6, lines 4-7, that in the second test cell, the carbon for the negative electrode contained a variety of coke rather than graphite. Johnson et al. teaches in column 4, lines 59-67, that the positive electrode comprised acetylene black, Ketjen black, polytetrafluoroethylene binder.

3. Claims 1, 3-4, 7, 10, 13-16, 17, 21-22, 24, 26-29, 31, 34, 36, 38-39 are rejected under 35 U.S.C. 102(e) as being anticipated by McMillan et al. (6,506,524).

McMillan et al. teaches in column 8, lines 26-35, a non-aqueous secondary battery comprising an anode and a cathode. McMillan et al. teaches in column 8, lines 50-55, that the anode comprises carbonaceous material such as graphite, coke, non-graphitizable carbon, etc. McMillan et al. teaches in column 9, lines 44-65, that the cathode material comprises $\text{Li}_{x}\text{Co}_{1-x}\text{N}_{x}\text{O}_2$, $\text{Li}_{x}\text{CoO}_2$, $\text{Li}_{x}\text{MnO}_2$, etc. McMillan et al. teaches in column 11, lines 39-67, that the carbonaceous electrode was lithiated by introducing the intercalation of lithium ions from a sheet of lithium metal. McMillan et al. teaches in column 10, lines 6-25, that the anode and cathode materials are held together with a binder such as polyvinylidene fluoride, polyhexafluoropropylene, etc. and an electrically conductive material such as graphite or carbon black are also included. McMillan et al. teaches in column 7, lines 63-67, that the electrolyte comprises fluoroethylene carbonate and propylene carbonate.

Allowable Subject Matter

4. Claim 30 is allowed.
5. Claims 5-6, 8-9, 11-12, 18-20, 23, 25, 32-33, 35, 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura S Weiner whose telephone number is 703-308-4396. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Laura S Weiner
Primary Examiner
Art Unit 1745

December 17, 2003